

JOHN W. FODERICK

IBLA 81-348

Decided March 19, 1981

Appeal from the decision of the Wyoming State Office, Bureau of Land Management, rejecting various oil and gas leases. W-73936, etc.

Affirmed.

1. Oil and Gas Leases: Applications: Filing -- Oil and Gas Leases: Lands Subject To

Pursuant to 43 CFR 3112.1-1, all lands which are not within a known geologic structure of a producing oil and gas field and are covered by canceled or relinquished leases, leases which terminated for nonpayment of rental or leases which expired by operation of law at the end of their primary or extended terms, are subject to leasing only in accordance with the simultaneous filing system. The Bureau of Land Management has no discretion under the regulations to accept over-the-counter offers for such lands.

APPEARANCES: John W. Foderick, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

John W. Foderick has appealed in part the decision of the Wyoming State Office, Bureau of Land Management (BLM), dated February 4, 1981, rejecting various noncompetitive over-the-counter oil and gas lease offers. The offers which are the subject of this appeal 1/ were rejected

1/ The offers subject to this appeal are W-73936, W-73939, W-73942, W-73946, and W-73948.

because the lands identified were previously included in oil and gas leases which had expired or terminated and, under 43 CFR 3112.1-1, such lands are available for subsequent leasing only under the simultaneous filing system.

In his statement of reasons, appellant urges that the oil and gas leasing regulations at 43 CFR 3101.1-1(a), 3108.2-1(a), and Subpart 3112 2/ should be interpreted to mean that lands included in expired or terminated leases do not necessarily have to be leased under the simultaneous filing system but may, at the discretion of the Secretary, be leased by noncompetitive over-the-counter lease offers.

[1] The pertinent parts of the regulations cited by appellant read as follows:

§ 3101.1-1 Availability of lands.

(a) All public domain lands subject to disposition under the Act may be leased by the Secretary of the Interior. Lands within a known geologic structure of a producing oil or gas field shall be leased only by competitive bidding to the highest responsible qualified bidder. Other public domain lands shall be leased only noncompetitively to the first qualified applicant.

* * * * *

§ 3108.2-1 Automatic terminations and reinstatement.

(a) * * * The termination of the lease for failure to pay the rental must be noted on the official records of the proper office. Upon such notation the lands included in such lease will become subject to the filing of new lease offers only as provided for in Subpart 3112.

* * * * *

Subpart 3112 -- Simultaneous Filings

* * * * *

§ 3112.1-1 Availability of lands.

All lands which are not within a known geological structure of a producing oil or gas field and are covered by canceled or relinquished leases, leases which automatically terminate for non-payment of rental pursuant to 30 U.S.C. 188, or leases which expire by operation of law

2/ Revisions to the oil and gas leasing regulations, effective June 16, 1980, may be found at 45 FR 35156 (May 23, 1980).

at the end of their primary or extended terms are subject to leasing only in accordance with this subpart. Other lands which are not within a known geological structure of a producing oil or gas field may be leased in accordance with this subpart. [Emphasis added.]

The language of the regulations is clear. Under 43 CFR 3112.1-1, lands which are not within the known geologic structure of a producing oil and gas field and are covered by relinquished, terminated or expired leases are subject to further leasing only under the simultaneous system. BLM has properly rejected appellant's offers.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

